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8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No.

2011-709

14 **MARGARET STRIKA**
5303 Highway 49 North #27
15 Mariposa, CA 95338

A C C U S A T I O N

16 **Registered Nurse License No. RN 452175**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 **License History**

25 2. On or about March 31, 1990, the Board of Registered Nursing issued Registered
26 Nurse License Number RN 452175 to Margaret Strika ("Respondent"). The license was in full
27 force and effect at all times relevant to the charges brought herein and will expire on August 31,
28 2011, unless renewed.

1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code ("Code"), unless otherwise indicated.

5 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
6 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
7 in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

8 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
9 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
10 to render a decision imposing discipline on the license.

11 6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,
12 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
13 disciplinary action during the period within which the license may be renewed, restored, reissued
14 or reinstated.

15 **STATUTORY PROVISIONS**

16 7. Code section 2761 states, in pertinent part:

17 The board may take disciplinary action against a certified or licensed nurse or deny an
18 application for a certificate or license for any of the following:

19 (a) Unprofessional conduct

20 (f) Conviction of a felony or of any offense substantially related to the qualifications,
21 functions, and duties of a registered nurse, in which event the record of the conviction shall be
22 conclusive evidence thereof.

23 8. Code section 2762 states, in pertinent part:

24 In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
28 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or

1 administer to another, any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
3 defined in Section 4022.

4 (b) Use any controlled substance as defined in Division 10 (commencing with Section
5 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
6 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
7 himself or herself, any other person, or the public or the extent that such use impairs his or her
8 ability to conduct with safety to the public the practice authorized by his or her license.

9 (c) Be convicted of a criminal offense involving the prescription, consumption, or self
10 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
11 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
12 of this section, in which event the record of the conviction is conclusive evidence thereof.

13 9. Code section 2770.11 states:

14 (a) Each registered nurse who requests participation in a diversion program shall agree to
15 cooperate with the rehabilitation program designed by the committee and approved by the
16 program manager. Any failure to comply with the provisions of a rehabilitation program may
17 result in termination of the registered nurse's participation in a program. The name and license
18 number of a registered nurse who is terminated for any reason, other than successful completion,
19 shall be reported to the board's enforcement program.

20 (b) If the program manager determines that a registered nurse, who is denied admission
21 into the program or terminated from the program, presents a threat to the public or his or her own
22 health and safety, the program manager shall report the name and license number, along with a
23 copy of all diversion records for that registered nurse, to the board's enforcement program. The
24 board may use any of the records it receives under this subdivision in any disciplinary
25 proceeding.

26 10. Code section 4060 states, in pertinent part:

27 No person shall possess any controlled substance, except that furnished to a person upon
28 the prescription of a physician, dentist, podiatrist, or veterinarian.

1 11. Health and Safety Code Section 11173, subdivision (a), provides that no person shall
2 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
3 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
4 or subterfuge; or (2) by the concealment of a material fact.

5 **COST RECOVERY**

6 12. Code section 125.3 provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 13. **DRUG:**

11 "Ativan" is a brand of Lorazepam, and is a Schedule IV controlled substance as designated
12 by Health and Safety Code section 11057, subdivision (d)(13).

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Criminal Convictions)**

15 14. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),
16 in that Respondent has been convicted of crimes that are substantially related to the qualifications,
17 functions, and duties of a registered nurse, as follows:

18 a. On or about June 16, 2005, in the Superior Court of California, County of Merced, in
19 the case entitled, *People of the State of California v. Margaret Strika* (Super Ct. Merced County,
20 2005, Case No. MM203705), Respondent was convicted by the court following her plea of guilty
21 to a violation of Vehicle Code section 23152, subdivision (b) (Drive While Having .08% or More
22 Blood Alcohol Content with Enhancement – B.A.C. .20%), a misdemeanor. The circumstances
23 of the crime are that on or about April 17, 2005, a Merced County Task Force from the Merced
24 Police Department was on a stakeout and observed Respondent, who appeared to be intoxicated,
25 leaving a bar. After pulling Respondent's vehicle over, the Task Force asked for assistance from
26 the California Highway Patrol. When the CHP officer arrived, he detected a strong odor of
27 alcohol coming from Respondent and the vehicle. After Respondent failed the field sobriety tests

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1 and two breath tests, which both measured .21% B.A.C., the officer released Respondent to her
2 father.

3 b. On or about August 24, 2006, in the Superior Court of California, County of Merced,
4 in the case entitled, *People of the State of California v. Margaret Strika* (Super Ct. Merced
5 County, 2006, Case No. MM210787), Respondent was convicted by the court following her plea
6 of no contest to a violation of Vehicle Code sections 23152, subdivision (b) (Drive While Having
7 .08% or More Blood Alcohol Content [B.A.C. .24%], with a Prior [6/16/2005], and 14601.2,
8 subdivision (a) (Drive with a Suspended License), both misdemeanors. The circumstances of the
9 crime are that on or about April 20, 2006, at 2317 hours, a CHP Officer received a call for a non-
10 injury accident at an apartment complex. A resident at the complex observed Respondent
11 backing in and out of a parking stall, striking another vehicle, and the carport pole while
12 attempting to park her car. Respondent then told the resident that she was going to her apartment
13 because she had been drinking. Later, Respondent went back to the carport area where she was
14 interviewed by the CHP officer. The officer smelled a strong odor of alcohol emitting from her
15 breath. After Respondent failed the field sobriety tests and two breath tests, which both measured
16 .24% B.A.C., Respondent was booked into the Merced County Jail.

17 c. On or about October 24, 2006, in the Superior Court of California, County of Merced,
18 in the case entitled, *People of the State of California v. Margaret Strika* (Super Ct. Merced
19 County, 2006, Case No. MM213498), Respondent was convicted by the court following her plea
20 of guilty to a violation of Vehicle Code sections 23152, subdivision (a) ((Drive While Under the
21 Influence of an Alcoholic Beverage and/or Drug or Under Their Combined Influence with a Prior
22 [6/16/2005]) and 14601.2, subdivision (a) (Drive With a Suspended License), both
23 misdemeanors. The circumstances of the crime are that on or about August 25, 2006, CHP
24 officers were on patrol when they encountered a vehicle being driven with expired registration
25 tags. After the officers pulled Respondent over, the officers detected a strong odor of alcohol
26 coming from Respondent and the vehicle. After failing the field sobriety tests and two breath
27 tests, which measured .17% and .15% B.A.C., Respondent was transported and booked into the
28 Merced County Jail.

d. On or about February 16, 2010, in the Superior Court of California, County of Mariposa, in the case entitled, *People of the State of California v. Margaret Strika* (Super Ct. Mariposa County, 2009, Case No. 8299), Respondent was convicted by the court following her plea of no contest to a violation of Penal Code section 484, subdivision (a) (Petty Theft), a misdemeanor. The circumstances of the crime are that on a date uncertain between November 1, 2008, and September 29, 2009, while employed as a registered nurse in the emergency room at John C. Fremont Hospital, Mariposa, California, Respondent stole prescription pads belonging to Joseph Rogers, M.D. Respondent then forged the doctor's name and submitted the fraudulent prescriptions at Walgreen's Pharmacy in order to obtain Lorazepam, a Schedule III Controlled Substance. On September 29, 2009, Respondent dropped off one of the prescriptions at the Walgreens and the pharmacy technician became suspicious of the doctor's signature. The pharmacy technician called Dr. Rogers and Dr. Rogers advised the technician that a package of approximately 100 prescriptions had been stolen from him within the last year. On September 30, 2009, Respondent reappeared at Walgreens to pick up the prescription. The pharmacy technician called the Merced Police Department and during the interview with a Merced Police Officer, Respondent told the officer that she had access to the prescription paperwork from her work and was able to take prescription papers as needed and submit the prescription for filling. Respondent told the officer she took two tablets of Lorazepam per day. After a search of Respondent's purse, the officer located a prescription bottle labeled Lorazepam in the name of B.G., a male, with three tablets inside. Respondent was transported and booked into the Merced County Jail.

SECOND CAUSE FOR DISCIPLINE

(Criminal Conviction Involving the Consumption of Alcohol)

15. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (c), in that Respondent was convicted of crimes involving the consumption of alcoholic beverages and forged prescriptions for the controlled substance, Lorazepam, as more particularly set forth in paragraph 13, subparagraphs a, b, c, and d, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use an Alcoholic Beverage and/or Drugs to the Extent or in a**
3 **Manner Dangerous or Injurious to Herself or Others)**

4 16. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
5 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in
6 that Respondent used alcoholic beverages and the controlled substance Lorazepam to an extent or
7 in a manner dangerous or injurious to herself or others, as follows:

8 a. On or about April 17, 2005, April 20, 2006, and August 25, 2006, Respondent used
9 alcohol, as more particularly set forth paragraph 13, subparagraphs a, b, and c, above.

10 b. Between November 1, 2008, and September 29, 2009, Respondent used the
11 controlled substance Lorazepam.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Obtained, Possessed, and Self-Administered a Controlled Substance)**

14 17. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
15 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivisions (a), in
16 that while licensed as a registered nurse, Respondent committed the following acts:

17 a. Between November 1, 2008 and September 29, 2009, in the County of Mariposa,
18 Respondent obtained Lorazepam, a controlled substance, by fraud, deceit, misrepresentation or
19 subterfuge, or by a concealment of material fact, by obtaining the drug fraudulently, for her own
20 use, by forging the name of Joseph Rogers, M.D., and submitting the forged prescriptions to
21 Walgreens Pharmacy in the name of B. G., a fictitious patient, in violation of Health and Safety
22 Code section 11173, subdivision (a).

23 b. Between November 1, 2008 and September 29, 2009, Respondent possessed the
24 controlled substance Lorazepam, without a lawful prescription, in violation of Code section 4060.

25 c. Between November 1, 2008, and September 29, 2009, Respondent self-administered
26 the controlled substance Lorazepam, without lawful authority.

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1 OTHER MATTERS

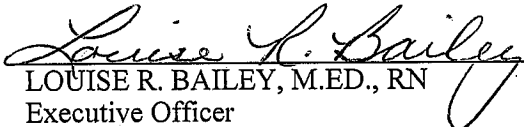
2 Respondent entered the Board of Registered Nursing's Diversion Program on November
3 17, 2009, and was terminated from the program on March 11, 2010 as a public safety risk for
4 failure to comply with the program.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board of Registered Nursing issue a decision:

- 8 1. Revoking or suspending Registered Nurse License Number RN 452175, issued to
9 Margaret Strika;
- 10 2. Ordering Margaret Strika to pay the Board of Registered Nursing the reasonable costs
11 of the investigation and enforcement of this case, pursuant to Business and Professions Code
12 section 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.

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15 DATED: 2/14/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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